

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES  
APPROVAL OF APPLICATION A-18594  
WATER DIVISION 1-C

Background

1. On May 9, 2008, Kerwin and Perry Elting filed application A-18594 for a Permit to Appropriate Water.
2. Kerwin and Perry Elting filed map number 17223 showing land proposed to be irrigated under application A-18594.

Order

IT IS HEREBY ORDERED that application A-18594 is APPROVED subject to the following limitations and conditions:

1. The source of water is the Little Blue River.
2. The water shall be used for the purpose of irrigation.
3. The priority date is May 9, 2008.
4. Only the land shown on map number 17223 may be irrigated under appropriation A-18594.
5. The rate that water may be diverted under appropriation A-18594 shall not exceed one cubic foot per second (cfs) for every 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.
6. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
  - a. Notify the Department of any change in ownership or address.
  - b. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).
  - c. Getting approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.

Deadlines

1. Construction of the diversion works must begin within six months of the signing date of this application approval. The appropriator must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.

2. Construction of the project must be completed by one year past the signing date of this application approval.
3. September 1, 2011, is the date by which the water appropriated under A-18594 must be used as stated in this approval. The appropriation will not be considered perfected until that time.
4. After September 1, 2011, a field investigation will be conducted to determine the amount of water used and acres irrigated, after which an order of cancellation will be issued for any unused portions of appropriation A-18594.

#### Additional Information

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use a portion or all of a perfected appropriation for five consecutive years may result in cancellation of the appropriation.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations. If you are not able to divert sufficient amounts of water, and there are junior appropriations upstream, you may call for water by contacting your local field office.

#### DEPARTMENT OF NATURAL RESOURCES

November 24 , 2008

/s/  
Brian P. Dunnigan, P.E., Acting Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this order may request a contested case hearing in accordance with the Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4<sup>th</sup> Floor State Office Building, Lincoln, NE 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this approval was posted on the Department's website and provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed on November \_\_\_\_\_, 2008, to the following:

Kerwin and Perry Elting  
c/o Kerwin Elting  
4383 Road W  
Edgar NE 68935